

Szelag, Matthew

From: Szelag, Matthew
Sent: Friday, February 24, 2017 1:48 PM
To: Niemi, Cheryl (ECY)
Cc: Chung, Angela
Subject: RE: Request for State Show-Stopper Review by March 3 - WQS Handbook Chapter 3

Hi Cheryl,

Thanks for providing your initial thoughts and comments on the draft Handbook revisions. As you can probably expect, we're going to need to coordinate with HQ before responding to your concerns. In the more near term, I was told that you should let Patrick McGuire at ACWA know that you would like more time to develop your comments.

Please let me know if you want to discuss further. Thanks,

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From: Niemi, Cheryl (ECY) [<mailto:cnie461@ECY.WA.GOV>]
Sent: Friday, February 24, 2017 9:13 AM
To: Chung, Angela ; Szelag, Matthew
Cc: mgil461@ECY.WA.GOV; Brown, Chad (ECY) ; brock.tabor@alaska.gov; Don.Essig@deq.idaho.gov; Jason.Pappani@deq.idaho.gov; 'STURDEVANT Debra'
Subject: FW: Request for State Show-Stopper Review by March 3 - WQS Handbook Chapter 3

Hi Angela and Matt.

I do not know if you have had a chance to review the draft guidance referred to in the e-mail below, but wanted to touch base with you because of several concerns I have associated with the draft and the process being used. Hope you have some insights on what is going on with this process and can share that information. Below are some of my concerns:

- The draft contains significant changes from the existing Chpt. 3 language. For instance, the existing language on the bottom of page 1 and through page 2 referring to CWA 30(c)(2) is removed, and the new version does not seem to address state's responsibility to set levels of protection at all. There are many other specific issues that will be part of the comments to EPA.
- On page 16 of the draft it refers to EPA's new Washington and Maine regulations as the basis for some of the draft language. As you know EPA's Washington regulation is now under formal petition to EPA, and ongoing litigation on EPA's Maine regulation. Since these issues are not settled it seems premature for EPA to even refer to the regulations in the draft guidance, or to base the guidance on circumstances that could change. Why is EPA referring to these regulations since issues surrounding them are unresolved?
- Why is EPA having a "show-stopper" review at this time? With so many of the draft guidance contents up in the air because of the Washington petition and the Maine lawsuit, why is EPA going forward with this at this time?
- Process: EPA has asked states to give a review of this document in 7 days, and plans to publish a final in April. States need more time for a thorough review. And – with the petition unresolved we can't even be sure we would be commenting on EPA current thinking with regards to the Washington WQS and EPA's Washington regulation. What is EPA's rush given the unresolved issues in the petition and the lawsuit? This doesn't make sense to me.

- Should EPA share this draft with the Washington petitioners? I think they would be interested, as it concerns issues that they have specifically petitioned EPA to reconsider. And apart from the petitioners, the WQS Handbook is an important guidance document, and really merits more public review anyway.

I just don't have confidence that all the issues at play will be settled by April, and having final guidance documents published and then perhaps pulled and redrafted and republished would be confusing to states and stakeholders alike. And spending time commenting now on a document that might not reflect EPA's thinking in a month or two is not a good use of time. So again, why the rush? I am very uncomfortable with this whole process given the timing of the Washington petition, the Maine lawsuit, the short review time given for states, and EPA's publication goal of April.

I am hoping you can provide some information on the rationale for the process and the timing of this EPA effort.

Thanks so much for your help on this,

Cheryl

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Note: This e-mail may be subject to public disclosure.

From: McGuire, Patrick [<mailto:mpmcguire@acwa-us.org>]
Sent: Wednesday, February 22, 2017 8:49 AM
To: Niemi, Cheryl (ECY) <cnie461@ECY.WA.GOV>
Subject: Request for State Show-Stopper Review by March 3 - WQS Handbook Chapter 3

To ACWA Monitoring, Standards, and Assessment Committee Members,

EPA is seeking review by ACWA of the draft Chapter 3: Water Quality Criteria, part of the Water Quality Standards Handbook. EPA is currently working on an update to Chapter 3 and is planning to post on the web in April 2017. EPA would like state comments by **March 3, 2017**.

The Water Quality Standards (WQS) Handbook contains the primary program guidance for the WQS program and is widely used by EPA, states, authorized tribes, and other stakeholders. EPA published the last substantive update to the Handbook in print form in 1994 and later added it to the water quality standards website. EPA updated the online version of the Handbook in 2007 and 2012 to add links to new policy and guidance developed since 1994. Since 2014, EPA has been updating chapters to reflect current, existing policy, incorporating information from the linked documents directly into the chapter text utilizing more plain language.

It would be most helpful if state comments focus on whether the document is clear and whether there is any explanation of policy in the chapter that conflicts with their understanding based on the source policy document. Please send comments directly to Melissa Dreyfus at Dreyfus.Melissa@epa.gov by **March 3**.

To download the draft Chapter 3: Water Quality Criteria, go here:

<http://image.exct.net/lib/fe651570766002797017/m/2/WQS+HB+Chap+3+Criteria+2.17.17+for+ACWA+review.docx>

Sincerely,

ACWA Staff